R E M A R K S

Claims 1-12, 14-16, and 20-21 have been canceled. Applicant submits claims 33-45. Claims 13, 17-19, and 22-45 are now pending in this application. Applicant amends claims 13, 17-19, and 22-32 for further clarification, and submits claims 33-45 to round out the scope of the invention. Applicant refers to Figs. 6-8 and their corresponding description in the specification for exemplary embodiments of and support for the claimed invention. No new matter has been added.

Claims 23-25 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention.

In particular, the Examiner objected to the phrase "blocks notified by" as being unclear. Applicant amends claims 23-24—and correspondingly, claims 29-30—to clearly recite the features of the claimed invention. Accordingly, Applicant respectfully requests that the Examiner withdraw the § 112, ¶ 2 rejection

Claims 13, 17, 19, and 22 stand rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,023,620 to Hansson. Applicant amends claims 13, 17, 19, 22, 26-27, and 32 in a good faith effort to further clarify the invention as distinguished from the cited reference, and respectfully traverses the rejection.

The Examiner maintained that the claimed "a number of blocks" reads on the checksum described in Hansson. Hansson, as cited and relied upon by the Examiner, does not disclose an update server processor (100) transmitting blocks of new version software on a block-by-block basis in response to respective requests from a cellular phone (110).

In other words, Hansson, as cited and relied upon by the Examiner, fails to disclose,

> "[a] software supplying device comprising:
> a memory storing software being downloaded by a
> radio terminal device; and

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> a communication unit that is adapted to notify said
> radio terminal device of a number of divided blocks for
> transmitting of said stored software, to receive <u>from the radio</u>
> <u>terminal device a request corresponding to each divided block</u>
> <u>to transmit the respective divided block</u>, and to <u>transmit in</u>
> <u>response to said respective requests said respective divided</u>
> <u>blocks to the radio terminal device on a block-by-block basis</u>,"
> as recited in claim 13. (Emphasis added)

Accordingly, Applicant respectfully submits that claim 13 is patentable over <u>Hansson</u> for at least the foregoing reasons. Claims 22 and 26 incorporate features that correspond to those of claim 13 cited above, and are, therefore, patentable over <u>Hansson</u> for at least the same reasons.

Regarding claim 17, the Examiner, on page 4, lines 14-15 of the Office Action, cited col. 2, lines 50-51 and Fig. 2, elements 250-320, of <u>Hansson</u> allegedly describing "no other communicating present" as alleged disclosure of the claimed controller features.

<u>Hansson</u>, as cited and relied upon by the Examiner, does not describe its controller (140) <u>detecting an operation for responding to an incoming call</u>, much less stopping a software download when such detection is made. Indeed, the cited portions of <u>Hansson</u> do not include any description of features in connection with incoming calls.

In other words, <u>Hansson</u>, as cited and relied upon by the Examiner, fails to disclose,

> "[a] radio terminal comprising:
> a radio communication unit communicating with a
> software supplying device;
> a memory storing software presently involved in
> operations; and
> a controller <u>stopping a download of software from said</u>
> <u>software supplying device when the controller detects an</u>
> <u>operation for responding to an incoming call</u>," as recited in
> claim 17. (Emphasis added)

Accordingly, Applicant respectfully submits that claim 17 is patentable over <u>Hansson</u> for at least the foregoing reasons. Claim 27 incorporates features that correspond to those of claim 17 cited above, and is, therefore, patentable over <u>Hansson</u> for at least the same reasons.

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Regarding claim 19, <u>Hansson</u>, as cited and relied upon by the Examiner, does not disclose a controller that determines whether to update stored software based on a value N that indicates a number of divided software blocks for updating the stored software. Please see, e.g., col. 2, lines 41-45 of <u>Hansson</u>. Indeed, <u>Hansson</u> does not describe the controller 140 in cell phone 110 making any determinations on whether a download starts based on a determination of a number of divided software blocks for updating. Contrarily, a user of the cell phone 110 described in <u>Hansson</u> must affirmatively accept the option to start a software update.

In other words, <u>Hansson</u>, as cited and relied upon by the Examiner, fails to disclose,

> "[a] radio terminal comprising:
> a radio communication unit communicating with a software supplying device;
> a memory storing software presently involved in operations;
> a receiving unit receiving a value N from said software supplying device indicating the number of divided software blocks for updating said stored software; and
> a controller that <u>determines before starting a download of said number of divided software blocks whether, based on the value N, to update the stored software, wherein if the value N is less than 1 then the download does not occur, and wherein if the value N is greater than 0 then the download starts</u>," as recited in claim 19. (Emphasis added)

Accordingly, Applicant respectfully submits that claim 19 is patentable over <u>Hansson</u> for at least the foregoing reasons. Claim 32 incorporates features that correspond to those of claim 19 cited above, and is, therefore, patentable over <u>Hansson</u> for at least the same reasons.

Claims 18 and 23-32 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,848,064 to <u>Cowan</u>. Applicant amends claims 18 and 28 in a good faith effort to clarify the invention as distinguished from the cited reference, and respectfully traverse the rejection.

As described above, claims 26-27 and 32 incorporate features that correspond to those of claims 13, 17 and 19, respectively. Thus, the Examiner apparently intended to reject these claims for corresponding reasons base on <u>Hansson</u> in the previous Office Action—instead of <u>Cowan</u> in correspondence with the rejection of claims 18 and 28. And as discussed above, claims 26-27 and 32 are patentable over <u>Hansson</u> for at least the same reasons as those for claims 13, 17, and 19, respectively.

Regarding claim 18, the Examiner cited col. 12, lines 7-11; col. 11, line 36 to col. 12, line 34; and col. 8, lines 57-59 of <u>Cowan</u> as alleged disclosure of the claimed invention. Page 6, lines 1-2 of the Office Action.

<u>Cowan</u>, as cited and relied upon by the Examiner, describe a mobile terminal 36 sequentially requesting and receiving ***files*** from a host computer 130 until all of the files have been downloaded to the mobile terminal 36. Please see, e.g., col. 11, lines 44-51; col. 12, lines 7-19; and col. 14, lines 38-43 of <u>Cowan</u>.

Thus, <u>Cowan</u>, as cited and relied upon by the Examiner, fails to disclose,

> "[a] radio terminal comprising:
> a radio communication unit communicating with a
> software supplying device;
> a memory storing software presently involved in
> operations; and
> a controller which makes ***different requests*** for
> downloading ***different parts*** of the software, wherein the
> requests are transmitted to the software supplying device by the
> radio communication unit," as recited in claim 18. (Emphasis
> added)

In an exemplary embodiment of the claimed invention, the different parts of the software represent parts of "module information," and this module information may include, for example, "address," "size," and "update-used software body" of update-used software of a software module (e.g., module B in Fig. 4A). Please see, e.g., page 20, line 19 to page 21, line 3 of the specification. Thus, advantageously, the claimed invention provides for

controlling download time according to the size chosen for a block. For example, as illustrated in Fig. 11 of the application, for a transmission rate of 9600 bps, a 32 KB block takes less than 30 seconds to transmit. The claimed invention also provides for suspending and resuming, at a later time, the downloading of the different parts of the software, thus allowing time for a mobile terminal device 10 to transmit or receive a call, or process regular operations. Please see, e.g., page 21, line 13 to page 22, line 16 of the specification.

Accordingly, Applicant respectfully submits that claim 18, together with claims 23-25 dependent therefrom, is patentable over <u>Cowan</u> for at least the foregoing reasons. Claim 28 incorporates features that correspond to those of claim 18 cited above, and is, therefore, together with claims 29-31 dependent therefrom, patentable over <u>Cowan</u> for at least the same reasons.

Claims 33, 36, 39, 42, and 45 incorporate features that correspond to those of the independent claims described above, respectively. Accordingly, Applicant respectfully submits that they, along with claims 34-35, 37-38, 40-41, and 43-44 dependent therefrom, respectively, are patentable over the cited references for at least the above-stated reasons.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

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Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

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